

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

LYNN T. PASLEY,

Plaintiff,

CIVIL ACTION NO. 10-CV-11805

vs.

DISTRICT JUDGE ARTHUR J. TARNOW

PATRICIA CARUSO, et al.,

MAGISTRATE JUDGE MONA K. MAJZOUN

Defendants.

**ORDER GRANTING IN PART PLAINTIFF'S MOTION FOR ENLARGEMENT OF
TIME (DOCKET NO. 18) AND DENYING PLAINTIFF'S MOTION FOR DISCOVERY
(DOCKET NO. 19)**

These matters come before the Court on two motions filed by Plaintiff on September 9, 2010. The first motion is Plaintiff's Motion for Enlargement of Time. (Docket no. 18). The second motion is Plaintiff's Motion for Discovery. Defendant Caruso has filed a Response to the Motion for Enlargement of Time. (Docket no. 22). This action has been referred to the undersigned for decision on all pretrial matters. (Docket no. 11). The Court dispenses with oral argument on the motions pursuant to E.D. Mich. LR 7.1(f). These matters are now ready for ruling.

On August 30, 2010 the Court granted Plaintiff's motion for leave to file an Amended Complaint for the purpose of adding CO Elkins and RUO Lange and Unhold as Defendants. (Docket no. 15). Shortly thereafter, Plaintiff filed the instant motion for an enlargement of time, arguing that he is in need of a copy of his medical records dated September 7, 2008 to April 21, 2010 in order to prepare an Amended Complaint. (Docket no. 18). Plaintiff states that because he does not have sufficient funds he has been unable to obtain a copy of his medical records from the

Michigan Department of Corrections.

In the present motion for enlargement of time, Plaintiff asks the Court to order Defendants to produce his medical records dated September 7, 2008 to April 21, 2010, and grant him additional time in which to receive the records and prepare his Amended Complaint. (Docket no. 18). In addition, by separate docket entry Plaintiff filed a Motion for Discovery, also asking that Defendants be ordered to provide him with a copy of his medical records dated September 7, 2008 to April 21, 2010. (Docket no. 19). Defendant Caruso objects to the Plaintiff's motions, arguing that Plaintiff is engaged in a fishing expedition.

The record shows that only Defendant Caruso has filed a notice of appearance in this case. Plaintiff has not shown that he served Defendant Caruso with a proper discovery request pursuant to Federal Rule of Civil Procedure 34. Even if he had, Defendant Caruso like the other Defendants in this action is under no general obligation to pay for the Plaintiff's discovery costs. *Smith v. Yarrow*, 78 Fed. Appx. 529, 544 (6th Cir. 2003) ("A prisoner plaintiff proceeding *in forma pauperis* may seek a waiver of certain pretrial filing fees, but there is no constitutional or statutory requirement that the government or Defendant pay for an indigent prisoner's discovery efforts."). Consequently, even if Plaintiff had sought to obtain his medical records from Defendant Caruso pursuant to a proper discover request, he would still be required to pay the cost of copying the records. Since the filing of Plaintiff's motions, Defendant Caruso has filed a motion to stay discovery. (Docket no. 21).

Federal Rule of Civil Procedure 8(a) provides that a Complaint is sufficient if it contains "a short and plain statement of the grounds for the court's jurisdiction," "a short and plain statement of the claim showing that the pleader is entitled to relief," and a demand for the relief sought. Fed.

R. Civ. P. 8(a). The Court is not persuaded that Plaintiff is unable to file an Amended Complaint without his medical records. Nevertheless, Plaintiff will be provided some latitude and will be granted additional time to file his Amended Complaint. Plaintiff's Amended Complaint should conform to Rule 8(a) as provided in this Order. In addition, the Amended Complaint should identify whether the Defendants are being sued in their individual or official capacities, or both.

IT IS THEREFORE ORDERED that Plaintiff's Motion for Enlargement of Time (docket no. 18) is **GRANTED IN PART**. Plaintiff is ordered to file his Amended Complaint adding CO Elkins and RUO Lange and Unhold as Defendants on or before October 13, 2010. In all other respects, Plaintiff's Motion for Enlargement of Time is denied.

IT IS FURTHER ORDERED that Plaintiff's Motion for Discovery (docket no. 19) is **DENIED**.

NOTICE TO THE PARTIES

Pursuant to Fed. R. Civ. P. 72(a), the parties have a period of fourteen days from the date of this Order within which to file any written appeal to the District Judge as may be permissible under 28 U.S.C. § 636(b)(1).

Dated: September 29, 2010

s/ Mona K. Majzoub

MONA K. MAJZOUB

UNITED STATES MAGISTRATE JUDGE

PROOF OF SERVICE

I hereby certify that a copy of this Opinion and Order was served upon Lynn Pasley and Counsel of Record on this date.

Dated: September 29, 2010

s/Lisa C. Bartlett
Case Manager